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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,090	02/17/2004	Gunnar Quincke	2858	6323

7590 07/29/2005  
STRIKER, STRIKER & STENBY  
103 East Neck Road  
Huntington, NY 11743

EXAMINER
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MAMMEN, NATHAN SCOTT

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 07/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/781,090

Applicant(s)

QUINCKE ET AL.

Examiner

Nathan S Mammen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☒ Claim(s) 20-25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 5, 7-9, 12-16, 18, 19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,913,801 to Bottinger et al.

The Bottinger '801 patent discloses a method and apparatus of determining crop parameters in an agricultural harvester with a compacting device (10). The method comprises filling the compacting device during a working process with a crop probe (34) and determining a crop parameter based on the compression of the crop probe. See col. 3, lines 19-61. The crop is transported in a transportation direction by the pickup (4) and then the crop probe is deviated in the feeding passage (6) from the transported crop, i.e., the crop flow is not linear.

Regarding claims 2, 5, 7-9, 12, 14, 15, 16, 18, 19: The harvester has a movable compacting element (12). The defined compression of the crop probe is determined, in part, on a basis of a compacting force. See col. 3, lines 30-38. The method comprised determining a mass of the crop probe and the moisture of the crop. See col. 2, lines 28-33. The method further comprises a correction and determination step. Col. 2, lines 40-50. The crop probe is compressed by an oscillation movement of the compacting element (12). The device has a pressure sensor (38, 42). The harvester has an opening (generally at 6) through which the crop probe is supplied to the compacting device. The probe chamber (10) and the movable direction

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of the compacting piston (12) are oriented substantially in a transport direction. The device comprises a position sensor (40) for measuring the position of a compacting piston in the compacting device.

3. Claims 1, 2, 3, 5, 8, 10, 11, 13, 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,401,549 to Ohlemeyer.

The Ohlemeyer '549 patent discloses a method and device for determining crop parameters in an agricultural harvester. The harvester comprises a compacting device (20, 22) that is fillable with a crop probe and a sensor (40) for determining a defined compression of the crop probe. The device has a means forming an opening (A) through which the crop probe is supplied to the compacting device. The harvester is a forage harvester having a chopper drum (24). The compacting device (20, 22) has movable compacting elements. The defined compression is adjusted depending on the crop being sensed (col. 4, lines 51-61). The method and device determine a mass flow rate. The forage harvester has a feed roll (22) and compression rolls (20) and a spring (35), and the method comprises determining a ratio between the compacting force and the volume (col. 5, lines 37-59). The crop is transported in a transport direction by the header (12) and then deviated from the transport direction.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent No. 5,913,801 to Bottinger et al. in view of U.S. Patent No. 4,034,543 to Voth et al.

The Bottinger '801 patent discloses the claimed invention, as stated in paragraph 2 above, except for the method comprising determining a volume and density of the crop probe. The Voth '543 patent teaches that it is known in the art to provide an agricultural harvester with a means (38) for determining the volume and density of the crop. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the agricultural harvester of the Bottinger '801 patent with the means for determining the volume and density as taught by the Voth '543 patent in order to ensure that a proper amount of crop material is fed into the baling chamber.

*Allowable Subject Matter*

6. Claims 20-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

7. Applicant's arguments filed 5/10/05 have been fully considered but they are not persuasive.

The independent claims still do not distinguish over the prior art. The Bottinger patent shows that the crop is moved in a transport direction by the pickup and then deviated from the transport direction (and from the crop being moved in the transport direction) by means of the feeding passage. For similar reasons, the Ohlemeyer patent also reads on the amended claims.

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***Conclusion***


8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Mammen whose telephone number is (571) 272-6991. The examiner can normally be reached Monday through Thursday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at (571) 272-6998. The fax number for this Group is (703) 872-9306.

**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group 3600**

  
**HEATHER SHACKELFORD**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**

**NSM**  
**7/21/05**

Nathan S. Mammen